

REMARKS

Applicant respectfully requests reconsideration of the subject application for the reasons set forth herein.

1. Election of Invention to be Examined

The Examiner requires restriction to one of Group I (Claims 1-4, 16-31), Group II (Claims 5-15, 32-44) and Group III (Claims 45-50). In response thereto, Applicant confirms provisionally electing, without prejudice and with traverse, Group I (claims 1-4, 16-31) for prosecution on the merits.

Applicant respectfully traverses the restriction for at least the following reason. MPEP § 803 states that “[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.” As such, Applicant respectfully submits that examination of entire application can be made without a serious burden and, therefore, the examiner should examine it on the merits even if it claims independent and distinct inventions.

35 U.S.C 103(a) Rejections

Claims 1-4, 16-17, 19, 23-25, and 28-29 stand rejected as being unpatentable over Chow (U.S. Patent Publication No. 2002/0058495) in view of Marsh (U.S. Patent 6,574,465). Claims 18, 30-31 stand rejected as being unpatentable over Chow in view of Marsh, and further in view of Dunn. Claims 21-22 stand rejected as being unpatentable over Chow in view of Marsh, and further in view of McConnell. Claims 26-27 stand rejected as being unpatentable over Chow in view of Marsh, and further in

view of Joyce. Applicant respectfully traverses these rejections for at least the reasons set forth below.

35 U.S.C. 103(a) sets forth in part:

[a] patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Hence, to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure re *Vaeck*, 947 F2d 488, 20 USPQ2d 1438 (Fed. Cir. 1999).

A. The References Do Not Teach the Determination and Receipt of a Flat Rate Charge

The independent claims each recite, in part, determining a flat rate charge for the services to enable rendering of wireless communications services to a subscriber.

Support for this limitation can be found in the specification where it recites, by way of non-limiting example only:

The operations of the present invention involve a number of improvements relative to prior known cellular systems. The billing system is modified and improved. The format, customer service screens and interfaces, and return and repair functions are improved. Simplified "one-line billing" is preferred. The billing is based upon a flat rate for cellular service. Preferably, the rate is low enough to attract additional users who are eliminated by traditional metered billing formats based upon minute of use charges. Payment is requested in advance, eliminating or substantially reducing accounts receivable. Service is terminated for non-payment, eliminating or reducing collections operations.

Applicant respectfully submits, in light of the recitation immediately above, that Marsh completely fails to teach the use of flat rate, pay-in-advance wireless communication services. Rather, Marsh teaches the assessment of an optimization for an existing wireless system based, in part, on information about the billing that has occurred in that system. *See Marsh, Abstract*. As such, Marsh does not teach determining or receiving a flat rate charge, but rather merely teaches assessing the optimality of a rate determined and received by a separate party not taught by Marsh.

This shortcoming of Marsh is not addressed by Chow, Dunn, McConnel, or Joyce. Therefore, at least this limitation in the independent claims is not taught by any combination of Marsh, Chow, Dunn, McConnell, or Joyce. In other words, Applicant submits that the cited references, neither individually nor in combination, teach or suggest the determination and receipt of a flat rate for pay-in-advance services for subscribers in a cellular communication system.

Wherefore, Applicant submits at least the independent claims are patently distinguishable over the prior art of record. Applicant further submits each of the

dependent claims is similarly distinguishable over the prior art of record, at least by virtue of each Claim's ultimate dependency from a patentably distinct base Claim.

B. The References Do Not Teach the Origination of All Cellular Calls From Within a Municipal Region Wherein the User Lives, Works, and Plays

The amended independent claims each recite, in part, that the wireless services of the present invention are cellular wireless services, and that those cellular wireless services originate from within a geographic calling region that corresponds to a municipal region. Neither Chow nor Marsh teaches the limiting of the origination of cellular wireless services to a particular geographic region that corresponds to a municipal region.

Chow principally teaches the use of cordless, rather than true cellular, telephone services. See *Chow, Paras. 0009, 0032*. To the extent Chow includes any teaching that could arguably encompass cellular calling, Chow teaches the use of "home zones and "visiting zones" (See *Chow, Paras. 0035-0036, and 0037-0043*) in which services may be provided. However, **Chow specifically teaches that calls must originate, and be received, by participants in the calling plan within the zone at the time of the call** (See *Chow, Paras. 0036, 0038 and 0040, the "zones" include the "calling" and "callable" populations*). As such, Chow teaches away from the present invention in that Chow would defeat the use of the present invention, at least by virtue of the fact that, for the present invention, if a user is to use a cellular device in place of a landline phone at locations where the user lives, works, and plays, that cellular device must be able to place calls out to any location from within the calling region, and not just place point-to-

point calls restricted to having the caller and call receiver within a particular zone, as is taught by Chow.

Further, Chow fails to teach the construction of a calling region as claimed in the present invention. The present invention constructs a calling region with regard to the limited geographic region that approximates the municipality wherein the user lives, works, and plays. As such, the landline devices typically used by a user can be replaced by a single cellular device through the use of the present invention. In direct contrast to the present invention, Chow teaches the selection of “zones” that may correspond to a user’s home, or a neighbor or family member’s home, for example. As such, at most Chow teaches the selection of particular zones from within a region, and in no way teaches the selection of a geographic region that approximates a municipal region in which a user lives, works, and plays.

These shortcomings of Chow are not addressed by Marsh, Dunn, McConnell, or Joyce. Therefore, at least these limitations in the amended independent claims are not taught by any combination of Marsh, Chow, Dunn, McConnell, or Joyce. In other words, Applicant submits that the cited references, neither individually nor in combination, teach or suggest the limiting of the origination of cellular wireless services to only a limited geographic region that approximates a municipal region in which a user lives, works, and plays.

Wherefore, Applicant submits at least the independent Claims are patently distinguishable over the prior art of record. Applicant further submits each of the

dependent claims is similarly distinguishable over the prior art of record, at least by virtue of each Claim's ultimate dependency from a patentably distinct base Claim.

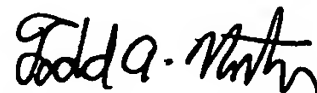
Conclusion

Wherefore, Applicant believes all outstanding grounds raised by the Examiner have been addressed, and thus respectfully submits the present case is in condition for allowance, early notification of which is earnestly solicited.

Alternatively, should the Examiner persist in any of the foregoing rejections, Applicant respectfully requests the Examiner: specifically identify and point out with particularity those exacting elements taught by the prior art references upon which the Examiner relies for teaching each claimed element of each rejected claim; and, identify those particular portions of the prior art references upon which he relies for support, so Applicant may be afforded an appropriate opportunity to deliberate and respond to any such rejection.

Respectfully Submitted,

REED SMITH LLP



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